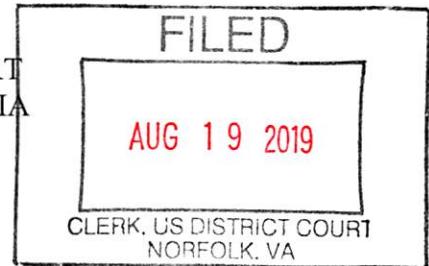


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



MALCOLM R.L. MELVIN, III, #22320-171,

Petitioner,

v.

CIVIL ACTION NO. 2:18cv523

BUREAU OF PRISONS,

Respondent.

FINAL ORDER

Before the Court is a Petition for a Writ of Habeas Corpus filed pursuant to 28 U.S.C. § 2241. ECF No. 1. Therein, the *pro se* Petitioner challenged the disciplinary proceedings of July 5, 2018, August 2, 2018, and August 10, 2018, which resulted in penalties including 150 days disciplinary segregation, eighteen months email loss, and twenty-seven months phone loss. ECF No. 1 at 2. Petitioner alleged there was insufficient evidence and that he was denied due process. *Id.* at 6-8.

The Petition was referred to the undersigned United States Magistrate Judge (“undersigned”) pursuant to 28 U.S.C. §§ 636(b)(1)(B) and (C), Federal Rule of Civil Procedure 72(b), Eastern District of Virginia Local Civil Rule 72, and the April 2, 2002, Standing Order on Assignment of Certain Matters to United States Magistrate Judges.

The Magistrate Judge’s Report and Recommendation filed June 27, 2019, recommends dismissal of the Petition without prejudice. ECF No. 5. Petitioner failed to pay a filing fee of \$5.00 or submit an affidavit requesting to proceed *in forma pauperis* as ordered by the Court on

February 5, 2019. Petitioner was advised that the failure to provide the Clerk of the Court with either the requisite \$5.00 filing fee or an "Affidavit in Support of Request to Proceed *in Forma Pauperis*" would result in dismissal of his petition without prejudice. ECF No. 4.

Petitioner has not moved for an extension of time to comply with the Court's Order nor has he responded in any way to the Order. The Court, having reviewed the record and having made *de novo* findings, does hereby **ADOPT** and **APPROVE** the findings and recommendations set forth in the Report and Recommendation filed June 27, 2019. It is, therefore, **ORDERED** that the Petition, ECF No. 1, be **DENIED** and **DISMISSED WITHOUT PREJUDICE**.

The Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty (30) days from the date of entry of such judgment.

The Petitioner has failed to demonstrate a substantial showing of the denial of a constitutional right, and therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 537 U.S. 322, 335-36 (2003).

The Clerk is DIRECTED to forward a copy of this Final Order to Petitioner.

It is so **ORDERED**.



Arenda L. Wright Allen
United States District Judge

ARENDAL WRIGHT ALLEN
UNITED STATES DISTRICT JUDGE

August 17, 2019